REMARKS

This amendment is responsive to the Office Action dated October 29, 2004. Applicants have amended claims 1, 8, 16, 21, 26, 27, and 34 and canceled claims 9, 10, 22, 23, 35 and 36. Claims 1-8, 11-21, 24-34 and 37-42 are now pending in this application.

Information Disclosure Statement filed May 3, 2001

As a preliminary matter, Applicants bring to the Examiner's attention the submission of an Information Disclosure Statement on May 3, 2001. It appears that Applicants have not yet received an initialed copy of the 1449 form accompanying the Information Disclosure Statement of May 3, 2001. The Information Disclosure Statement was timely filed within three months of the application filing date, and well before issuance of a first Office Action in this application. Accordingly, Applicants respectfully request that the Examiner consider the Information Disclosure Statement, and indicate such consideration in the next USPTO communication.

Obviousness-Type Double Patenting Rejection

In the Office Action, the Examiner provisionally rejected claims 1, 5-7, 9, 11-13, 16-18, 22, 27, 29, 31-33, 35, 37, 38, 41, and 42 of the present application (09/778,704) under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 6-8, 10, 12-16, 19, 21, 24, 25, 30-32, 34, 36, 37, 39 and 40 of copending application no. 09/778,715 (the '715 application). Applicants respectfully traverse this rejection.

Applicants respectfully submit that the Examiner has not established a prima facie case of obviousness-type double patenting. To support a provisional obviousness-type double patenting rejection, the Examiner must assess the differences between the claims in the pending applications, and indicate why the claims in one application would have been obvious over the claims in the other application. In re Berg, 46 USPQ2d 1226, 1229 (Fed Cir. 1998). The Examiner has not met this burden.

As an illustration, the Examiner recognized that claim 1 of the '715 application requires a dithered gray background representing a gray level of approximately 25-40% and acknowledged that claim 1 of the present application does not specify such a feature. In addition, the Examiner

noted that claim 1 of the present application requires generation of red-blue shifted gray elements, whereas claim 1 of the '715 application does not specify such a feature.

Despite these differences, the Examiner somehow concluded that claim 1 of the pending application would have been obvious in view of claim 1 of the '715 application. In particular, the Examiner stated that the "red-blue shifted gray level" limitation of the present application is "a way to adjust the second level." The Examiner reasoned that "[b]y adjusting the red-blue shift gray level, one may obtain gray level of 25-40%."

Applicants respectfully submit that the Examiner's analysis is in error. First, the "25-40%" limitation pertains to the dithered gray background, as set forth in claim 1 of the '715 application, and not to gray elements as set forth in claim 1 of the present application. Accordingly, the "25-40%" and "red-blue" limitations pertain to unrelated features of the claimed inventions. Moreover, even if the limitations did pertain to the same features, the Examiner pointed to no teaching that would have suggested to one of ordinary skill in the art the desirability of making the modifications required to achieve the claimed invention..

The Examiner applied a similar rationale in rejecting claims 16 and 27 of the present application. In view of the shortcomings noted above, Applicants respectfully request that the Examiner withdraw the provisional obviousness-type double patenting rejection. The above remarks are directed to the independent claims of the present application, and should be sufficient to overcome the provisional obviousness-type double patenting rejection. In light of the provisional status of the rejection, however, Applicants defer further comment on the Examiner's analysis.

Examiner's Response to Arguments

In the present Office Action, the Examiner withdrew the previous rejections under 35 U.S.C. § 112, first paragraph, § 112, second paragraph, § 102 and § 103 in favor of new grounds of rejection under §§ 102 and 103. However, the Examiner presented remarks in response to the arguments submitted by Applicants in the response filed May 29, 2003. In the remarks, the Examiner seemed to defend some aspects of the previous rejection, yet withdrew the rejection nonetheless. The Examiner also seemed to raise some clarity or interpretational issues, but did not advance a rejection under § 112, second paragraph. Applicants are somewhat

confused, but respond to some of the points made by the Examiner below for purposes of clarification.

In his remarks, the Examiner raised the following questions: "How does an estimated gamma generates a first gray element? What is an estimated gamma? How does a set of red-blue shifted gray element generate? Is there any special method to estimate a gray balance of display based on user selection?" For purposes of clarification to aid the Examiner's analysis, set forth below is Applicant's response to the Examiner's questions.

With respect to the Examiner's first question ("How does an an estimated gamma generates a first gray element?"), Applicants point out the original claim 1 required generating a first gray element based on an estimated gamma for a green channel of a display device. Accordingly, it is not the estimated gamma that generates the first gray element. Rather, the first gray element is generated based on an estimated gamma for the green channel. With respect to the Examiner's second question ("What is an estimated gamma?"), those skilled in the art of color imaging understand that the term "gamma" refers to the relationship between an input value and an output value produced by a display device as a function of the input value. As is well known in the art, this relationship is not linear, and is typically described in terms of gamma, which may be expressed as an exponential term.

Although Applicants believe that the original claims are sufficiently clear, Applicants have amended claims 1, 16 and 27 to more clearly present certain aspects of the claimed invention in an effort to advance prosecution toward allowance. For example, amended claim 1 now requires displaying on a display device a first gray element having red, green and blue values that are substantially equivalent to a selected green value based on an estimated gamma for a green channel of the display device. Hence, once a green value is selected based on an estimate of gamma for the green channel, substantially the same value is used for the red, green and blue values in the first gray element. Similar limitations are set forth in claims 16 and 27.

With respect to the Examiner's third question ("How does a set of red-blue shifted gray element generate?"), Applicants point out that the original claims required generation of a set of red-blue shifted gray elements that represent shifts in the red channel, blue channel, or a combination of the red and blue channels away from the first gray element. It seems clear that

this feature of the claimed invention involves shifts, or adjustments, in color values for the red, blue, or red and blue channels relative to similar values applicable to the first gray element.

The Examiner's third question seems to be directed to the scope of the claim, rather than any indefiniteness. Indeed, the Examiner did not raise a rejection under § 112, second paragraph. Nevertheless, for purposes of clarity and advancement of prosecution toward allowance, Applicants have amended claims 1, 16 and 27 to more specifically require the display of a set of red-blue shifted gray elements with green values substantially equivalent to the selected green value, wherein at least one of the red and blue values of each of the red-blue shifted gray elements is different from the selected green value, and thereby represent shifts in the red channel, blue channel, or a combination of the red and blue channels away from the first gray element. Consequently, the amended claims very clearly specify the chacteristics of the red-blue shifted gray elements.

With respect to the Examiner's fourth question ("Is there any special method to estimate a gray balance of display based on user selection?"), the literal language of claim 1 is clear with respect to the the manner in which the gray balance is estimated. In particular, estimating a gray balance of the display device is based on user selection of one of the gray elements that appears to most closely blend with a gray background. Hence, by selecting the gray element that appears to most closely blend with the gray background, the user indicates the combination of red, green and blue values (that produce the color of the gray element) that most closely blend with the gray background. Relative values of red, green and blue in the selected gray element thereby indicate gray balance or imbalance, as gray balance refers to the difference in gamma between the red, green and blue color channels.

The claimed invention recognizes that estimation of a single gamma applicable to all color channels may be inappropriate due to differences, or gray imbalance, between the color channels. Gray balance indicates relative balance, or imbalance, between the different color channels so that individual gammas can be used, if necessary. Rather than estimate individual gammas directly for all color channels, however, the claimed invention provides a simplified process that relies on a green channel gamma estimate as a "starting point" for estimation of gray balance.

To that end, the first gray element includes red and blue values that are substantially equivalent to the green value. User selection of the first gray element indicates a balance among the red, green and blue color channels; hence, a common gamma for all color channels may be appropriate. The red-blue shifted gray elements have the same green value but different red and/or blue values. Therefore, user selection of one of the red-blue shifted gray elements indicates an imbalance among the red, green and blue color channels, and can be used to quantify that imbalance and yield individual gammas.

The green gamma is "locked in" in the gray balance step, while the red and blue balance or imbalance is determined. In other words, according to the claims, every gray element carries substantially the same green value, but is modulated by different gradations of red and blue. This step eliminates one axis of variation, green, but permits identification of any imbalance between red, green or blue. This simplified process limits the range of choices to a more finely-tuned area, and aids the user in quickly making a more accurate selection. Again, the result of the gray balance estimate may be a single gamma or a set of individual gammas, one for each of the color channels, derived from the red, green, and blue values of the selected gray element, depending on the result of the gray balance estimate.

Applicants are hopeful that the discussion above will aid the Examiner's understanding of the claimed invention. If the Examiner has any further questions, or suggestions, he is invited to contact the undersigned by telephone at his convenience.

Claim Rejection Under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-4, 6-11, 13, 27-30, 32-37 and 39 under 35 U.S.C. § 102(b) as being anticipated by Elaine Weinmann and Peter Lourekas (Photoshop for Windows) (herein "Elaine"). Applicants respectfully traverse the rejection to the extent such rejection may be considered applicable to the amended claims. Elaine fails to disclose each and every feature of the claimed invention, as required by 35 U.S.C. § 102(b), and provides no teaching that would have suggested the desirability of modification to include such features.

Elaine fails to disclose several features required by Applicant's claims. For example, Elaine fails to disclose or suggest displaying a first gray element having red, green and blue

values that are substantially equivalent to a selected green value based on an estimated gamma for a green channel of the display device. In the Office Action, the Examiner cited page 256, Fig 9, page 122, Fig. 10, and page 252, Fig. 2, as disclosing generation of a first gray element based on an estimated gamma for a green channel. In those sections of the Elaine reference, Applicants are unable to find any teaching that would have suggested such a feature in the original claims, not to mention the specific requirements now incorporated into the amended claims for purposes of clarity.

At page 256, Fig. 9, the Elaine reference describes steps for actively adjusting a display device by way of a monitor setup menu. In particular, the Photoshop user adjusts the overall display device gamma by actuating a slider bar (Fig. 9). Notably, it appears that the gamma slider bar initially results in a common gamma for the red, green and blue channels. Then, upon clicking the "balance button," the Photoshop user adjusts individual slider bars for the red, green and blue channels to achieve a neutral gray in the calibration squares (Fig. 9).

Hence, this portion of the Elaine reference does not describe displaying a first gray element with red, green and blue values substantially equivalent to a selected green value based on an estimated gamma for a green channel of the display device, or a technique for estimating gray balance, as claimed. Instead, Elaine describes a control panel in Photoshop for adjusting display characteristics to achieve a desired gamma and balance. Rather than estimating characteristics of a display device, such as gamma or gray balance, Elaine is concerned with manipulating the inputs to such a display device by making adjustments to compensate gamma and gray balance. Nothing in this section of the Elaine reference suggests the features set forth in the claims.

At page 122, Fig. 10, Elaine merely describes an option by which the user can choose to display colors in RGB (red, green, blue) color mode or CMYK (cyan, magenta, yellow, black) color mode. This portion of the Elaine reference seems to have nothing to do with display of red, green and blue values values that are substantially equivalent to a selected green value based on an estimated gamma for a green channel of the display device. At page 122, Elaine appears to make no mention of gamma estimate or display of a gray element. Instead, page 122 of Elaine refers to tools for selection of different color modes, followed by selective adjustment of hue, saturation and lightness.

At page 252, Fig. 2, Elaine describes the Photoshop Color Picker, which enables a user to generate customized colors. This aspect of Photoshop does not appear to relate to the requirements of Applicant's claimed invention. On page 252, Elaine describes the manner in which the Photoshop user may selects colors, interpolation techniques, painting tool features, and other characteristics. This section of Elaine provides no teaching relevant to the display of red, green and blue values values that are substantially equivalent to a selected green value based on an estimated gamma for a green channel of the display device, and does not even appear to mention gamma.

In addition to the above deficiencies, Elaine neither discloses nor suggests displaying a set of red-blue shifted gray elements with green values substantially equivalent to the selected green value, wherein at least one of the red and blue values of each of the red-blue shifted gray elements is different from the selected green value, as set forth in the amended claims. Moreover, Elaine fails to teach estimating a gray balance of a display device based on user selection of one of the gray elements (i.e., the first gray element with substantially equivalent red, green and blue values or one of the red-blue shifted gray elements) that appears to most closely blend with a gray background, as further required by the claims.

With respect to corresponding features in the original claims, the Examiner pointed to page 15, Fig. 14, of the Elaine reference. In that section, the Elaine reference merely describes the use of a Picker palette "for mixing and selecting colors to apply with the painting, editing, and fill tools." Elaine makes no mention of estimation of the gray balance of a display device based on selection of a first gray element with substantially equivalent red, green and blue values or one of a plurality of red-blue shifted gray elements with substantially equivalent green values, but wherein at least one of the red and blue values of each of the red-blue shifted gray elements is different from the green value.

Again, in the passages cited by the Examiner, Elaine appears to describe techniques for picking colors to form an image, or adjusting the overall gamma or gray balance of a display device, but does not contemplate estimation of gamma or gray balance based on user selection of one of a plurality of gray elements, as particularly defined by Applicants' claims, that appears to most closely blend with a gray background. For these reasons, the Elaine reference fails to

disclose all of the features set forth in the claims, and therefore does not support a prima facie case of anticipation with respect to the claimed invention.

The claims dependent on independent claims 1 and 27 incorporate all of the limitations of those base claims, and therefore are patentable for the reasons expressed above. Moreover, the Elaine reference also fails to disclose or suggest numerous additional limitations set forth in Applicants' dependent claims, some of which are discussed below.

With respect to claims 2 and 28, for example, Elaine does not provide a teaching that would have suggested characterization of the colorimetric response of the display device based on estimated gamma and estimated gray balance as defined in claims 1 and 27, respectively. The Examiner pointed to Elaine at page 256, Fig. 9, and page 15, Fig. 14. However, those portions of the Elaine reference are inapplicable to the requirements of the claims, for the reasons already expressed above.

With respect to claims 3 and 29, Elaine makes no mention of selection of one of a plurality of green elements displayed by a display device that appears to most closely blend with a dithered green background, and estimation of the gamma for the green channel of the display device based on the selected green element. The Examiner pointed to Elaine at page 256, Fig. 9, page 111, Fig. 2, and page 252, Fig. 2. In these sections, Elaine provides no pertinent teaching. For example, in each of these sections, Elaine fails to describe any feature involving selection of one of a plurality of green elements, and does not mention a dithered green background. At page 111, Fig. 2, Elaine describes a feature that enables selection of a foreground or background color for formation of an image. This feature has nothing to do with estimation of gamma and does not involve presentation of green elements or use of a dithered green background. The mere mention of a "background" does not equate with teaching of the specific requirements of claims 3 and 29.

With respect to claims 4 and 30, Elaine does not disclose modifying a color image based at least in part on estimated gray balance, and delivering the modified color image to the display device. Again, there is no estimate of gray balance in the Elaine reference. Moreover, there is no mention of modifying color images based on such an estimated gray balance. The Examiner pointed to page 256, Fig. 9, and page 11, Fig. 2, but did not explain the manner in which such a feature is disclosed in Elaine.

With respect to claims 6 and 32, Elaine makes no mention whatsoever of the estimation of a coarse gamma and a fine gamma based on selection of a first and second plurality of green elements, respectively, that appear to most closely blend with a dithered green background. The Examiner pointed to page 256, Fig. 9, of Elaine, but provided no support for the assertion that Elaine anticipates this feature of Applicant's claims.

With respect to claims 7 and 33, there is no teaching in Elaine of the use of a first plurality of green elements that represent greater gradations in green intensity that the second plurality of green elements, for purposes of coarse and fine gamma estimation according to claims 6 and 32. The Examiner identified no corresponding features within the Elaine reference.

With respect to claims 8 and 34, Applicants can find no teaching within Elaine that would have suggested display of the first gray element (as defined by claims 1 and 17) in a substantially central position relative to the red-blue shifted elements (as defined by claims 1 and 17). The passage cited by the Examiner appears to be entirely devoid of such a teaching.

With respect to claims 11 and 37, Elaine describes adjustment of blackpoint, but not estimation of black point, gamma, and gray balance.

With respect to claims 13 and 39, Applicants are unable to find any support for the notion that Elaine describes modifying a color image based on the estimated blackpoint, gamma, and gray balance, and delivering the modified color image to the display device.

Claim Rejection Under 35 U.S.C. § 103 in view of Elaine and Adobe

In the Office Action, the Examiner also rejected claims 5, 12, 15-21, 22, 24, 26, 31, 38, 41, and 42 under 35 U.S.C. 103(a) as being unpatentable over Elaine, and further in view of Adobe Technical Guides (Adobe). Applicants respectfully traverse the rejection to the extent such rejection may be considered applicable to the claims as amended.

In support of this rejection, the Examiner essentially applied Elaine as in the section 102 rejection above, but acknowledged that Elaine does not describe transmitting information via a computer network, nor other network-related features of the rejected claims.

With respect to the requirements of claims 5 and 31, Elaine does not disclose a technique, wherein a display device is associated with a client residing on a computer network, comprising transmitting information representing the estimated gray balance to a remote server on the

network, modifying the color image at the remote server based on the information, and delivering the modified color image to the client via the computer network.

Likewise, with respect to claims 12 and 38, Elaine fails to disclose or suggest transmitting information representing estimated blackpoint, gamma, and gray balance to a remote server on a network, modifying a color image at the remote server based on the information, and delivering the modified color image to a client via the computer network.

With respect to claim 15 and 41, Elaine similarly lacks a teaching that would have suggested guiding a client through the process of obtaining the estimated gray balance by delivering one or more instructional web pages to the client.

Further, unlike claims 16-26, Elaine makes no mention of a web server residing on a computer network to transmit web pages to remote clients, a color image server residing on the computer network to transmit color images referenced by the web pages to the clients, a color profile server residing on the computer network to guide the clients through a color profiling process to obtain information characterizing the color responses of display devices associated with the clients.

Elaine also fails to disclose such a color profiling process including displaying a first gray element having red, green and blue values that are substantially equivalent to a selected green value based on an estimated gamma for a green channel of the display device, displaying a set of red-blue shifted gray elements with green values substantially equivalent to the selected green value, wherein at least one of the red and blue values of each of the red-blue shifted gray elements is different from the selected green value, selecting one of the gray values that appears to most closely blend with a gray background, and estimating the gray balance of the display device based on the selected gray element, as set forth in claims 16-26.

Finally, contrary to claims 16-26, Elaine does not suggest one or more color correction modules that modify the color images transmitted by the color image server based on the information to improve the accuracy of the color images when displayed on the respective display device.

In light of the deficiencies in the Elaine reference, the Examiner cited the Adobe reference, which describes operation of the Adobe Gamma application. Applicants respectfully

submit that the Adobe reference provides no teaching sufficient to overcome the basic deficiencies in the Elaine reference references.

For example, like Elaine, Adobe does not describe displaying a first gray element having red, green and blue values that are substantially equivalent to a selected green value based on an estimated gamma for a green channel of the display device. The Examiner asserted that one of ordinary skill in the art would have considered it obvious "to use the green channel as the range of gray level." The Examiner provided no analysis to support this assertion, and cited no pertinent teaching in Elaine or Adobe.

Further, Adobe makes no mention of the estimation of gray balance based on user selection of either a first gray element with substantially equivalent red, green and blue values or one of a plurality of red-blue shifted gray elements that appears to most closely blend with a gray background. The Examiner did not identify any teaching within Elaine or Adobe that would have suggested such a feature.

In addition, the fact that the Adobe Gamma application is designed to work with different operating systems (Windows NT, 95, 98, Mac OS), as mentioned by the Examiner, falls far short of any teaching that would have suggest modification of the Photoshop application described by Elaine to somehow include a web server, color image server, color profiling server, and color correction module.

The Adobe Gamma application would not seem to implicate the use of a web server, let alone the inclusion of a color image server that transmits color images, a color profile server that guides clients through a color profiling process to obtain information, and one or more color correction modules that modify the color images transmitted by the color image server based on the information.

Moreover, even if such features were found in Adobe or some other prior art, it is unclear why one of ordinary skill in the art would have considered such features desirable in a document authoring application such as Adobe Photoshop. In particular, a document authoring application like Photoshop concerns the preparation of document including imagery, text and the like. This sort of application would not seem to present a need or desire for a color image server, color profile server, or color correction module as set forth in the claims.

Neither the Elaine reference, nor the Adobe Gamma application provides any mention of such features. Therefore, one of ordinary skill in the art having access to Elaine and Adobe would have obtained no concept of the additional features set forth in claim 15. Accordingly, the Adobe reference falls far short of any teaching that would have suggested the desirability of modifying the Photoshop application described by Elaine to include the requirements of Applicants' claims.

The claims dependent on independent claim 16 incorporate all of the limitations of those base claims, and therefore are patentable for the reasons expressed above. Moreover, the Elaine and Adobe references also fail to disclose or suggest numerous additional limitations set forth in Applicants' dependent claims, as detailed above with respect to the 102 rejection, and as further set forth below with respect to some of the claims.

With respect to claim 17, for example, the Elaine and Adobe references do not discuss transmission of information in a web cookie. The Examiner's conclusion that the mention of servers and clients in the Adobe reference somehow would have suggested the use of a web cookie in the manner claimed by Applicants does not seem plausible. Servers and clients communicate, the majority of the time, by network protocols that do not involve exchange of web cookies. Therefore, Applicants respectfully submit that a conclusion that the mere implication of network environment would have suggested transmission of cookies as an obvious modification is misplaced.

Claim Rejection Under 35 U.S.C. § 103 in view of Elaine, Adobe, Berger and Brettel

In the Office Action, the Examiner rejected claims 14, 23, 25 and 40 under 35 U.S.C. 103(a) as being unpatentable over Elaine, Adobe and "Why do Images Appear Darker on Some Displays? An Explanation of Monitor Gamma" by Robert W. Berger (Berger), and further in view of "Display gamma estimation applet" by Hans Brettel (Brettel). Applicants respectfully traverse the rejection to the extent such rejections may be considered applicable to the claims as amended. Applicants note that claim 23 has been canceled.

In his analysis, the Examiner essentially applied Elaine and Adobe as applied in the rejection of claims 5, 12, 15-21, 22, 24, 26, 31, 38, 41 and 42 under section 103. The Examiner apparently recognized that the Elaine and Adobe references fail to suggest the use of a dithered

approximately 33% gray background. The Berger and Brettel reference provide no teaching sufficient to cure the basic deficiencies in Elaine and Adobe, as already identified above, nor any teaching that would have suggested modification of the Photoshop application described by Elaine to include these additional requirements of claims 14, 25 and 40.

Brettel describes a process for estimating the gamma of a display device. Applicants have examined the applet published on the web by Brettel, and note that it presents a center square against a background. The user adjusts a first slider bar to apparently adjust the pixel intensity of the background. In addition, the user adjusts a second slider bar to apparently adjust a degree of dithering in the gray patch.

The Brettel applet differs from the invention of claims 14, 25 and 40. For example, contrary to the claimed invention, the background presented by the Brettel applet is not dithered. Instead, the background in the Brettel applet appears to vary in pixel intensity on a continuous tone basis according to the position of the respective slider bar. Rather, it appears that the center square is dithered by a series of pixel lines that are selectively turned on and off, although it is difficult to confirm this point. In any event, the background in the Brettel applet clearly is not dithered.

In addition, and more importantly, the Brettel applet would have provided no suggestion to one of ordinary skill in the art of the desirability of a dithered gray background representing a fixed gray level of approximately 33%. As explained by Applicants' disclosure, a dithered background representing a fixed gray level of approximately 33% gray level, rather than, e.g., 50%, more closely matches the actual midpoint of black to gray transition for most display devices. See, e.g., page 2, line 25, to page 3, line 2. The black to gray transition ordinarily is not linear for a typical CRT monitor. With a dither that produces a fixed gray level in the range of approximately 25 to 40%, however, the gray element selected by the user in comparison to the dithered background provides a more accurate indication of gamma or gray balance.

The Berger reference provides no teaching sufficient to bridge the gap between the Brettel applet and the claimed invention. In particular, Berger does not disclose or suggest the use of a dithered background representing a gray level of approximately 33%, as required by claims 14, 25 and 40. The Examiner noted that Berger shows dithered elements with gray levels of 25%, 50% and 75% ("Gamma Demonstration Image"). However, those dithered elements

clearly are not used for gamma estimation. Rather, Berger presented dithered elements with gray levels of 25%, 50% and 75% to illustrate how dithering can be used to approximate the appearance of a continuous tone element, and the effect of gamma correction on the approximation. In particular, Berger presented the dithered elements adjacent continuous tone elements with actual intensity levels of 25%, 50% or 75% to show how dithering approximates continuous tone intensity.

For measurement of gamma, however, Berger fails to provide any teaching that would have suggested the use of a dithered background representing a gray level of approximately 33%. Berger presents an image for comparison of continuous tone gray elements to adjacent, dithered gray elements ("Gamma Measurement Image"). Applicants note that the gray elements in the Gamma Measurement Image do not form a background.

Moreover, Berger does not suggest that the dithered gray elements should represent a gray level of approximately 33%. Indeed, Berger makes no mention of such a feature. To the contrary, the dithered gray elements presented by Berger appear to be dithered to represent a gray level of approximately 50%. In particular, in each dithered gray element, Berger appears to turn on alternating pixels, i.e., every other pixel, resulting in a 50% dither, which is directly at odds with the requirements set forth in claims 14, 25, and 40.

CONCLUSION

All claims in this application are in condition for allowance. Applicants respectfully request reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date: 2-27-2004

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